

MARK J. CONNOT (10010)
COLLEEN E. MCCARTY (13186)
FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, Ste. 700
Las Vegas, NV 89135
Telephone: 702.262.6899
Facsimile: 702.597.5503
mconnot@foxrothschild.com
cmcarty@foxrothschild.com
Liaison Counsel for Defendants

MICHAEL VAN RIPER (*Pro Hac Vice*)
NATALIE SHKOLNIK (*Pro Hac Vice*)
AARI ITZKOWITZ (*Pro Hac Vice*)
JAY AUSLANDER (*Pro Hac Vice*)
WILK AUSLANDER LLP
825 Eighth Avenue, Ste. 2900
New York, NY 10019
Telephone: 212.421.2902
Facsimile: 212.752.6380
mvanriper@wilkauslander.com
nshkolnik@wilkauslander.com
aitzkowitz@wilkauslander.com
jauslander@wilkauslander.com
Counsel for Defendants

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

IN RE CLEANSARK, INC. DERIVATIVE
LITIGATION,

This Document Relates to:
ALL ACTIONS.

Case No.: 2:21-cv-01004-GMN-BNW

**JOINT STIPULATION AND ORDER
SETTING BRIEFING SCHEDULE
FOR DEFENDANTS' MOTION TO
DISMISS**

Plaintiffs Andrea Ciceri and Mark Perna ("Plaintiffs"), derivatively on behalf of Nominal Plaintiff CleanSpark, Inc. ("CleanSpark") and Defendants Zachary K. Bradford, Lori L. Love, S. Matthew Schultz, Larry McNeill, Thomas L. Wood, Roger P. Beynon (the "Individual Defendants"), and Nominal Defendant CleanSpark (together with the Individual Defendants, "Defendants") (collectively, with Plaintiffs, the "Parties"), by and through their undersigned counsel, hereby enter into the following stipulation and proposed order:

The Six Derivative Actions

WHEREAS, on May 26, 2021, plaintiff Andrea Ciceri filed a shareholder derivative action on behalf of nominal defendant CleanSpark in the United States District Court for the District of Nevada, captioned *Ciceri v. Bradford, et al.*, Case No. 2:21-cv-01004-GMN-BNW (“*Ciceri*”). *Ciceri* was assigned to this Court; and

WHEREAS, on June 22, 2021, plaintiff Mark Perna filed a second shareholder derivative action on behalf of nominal defendant CleanSpark in the United States District Court for the District of Nevada, captioned *Perna v. Bradford, et al.*, Case No. 2:21-cv-01181-GMN-BNW (“*Perna*”). *Perna* was also assigned to this Court; and

WHEREAS, on June 29, 2021, this Court consolidated *Ciceri* and *Perna* into the above-captioned action (the “Consolidated Action”) and designated the complaint filed in *Ciceri* as the operative complaint pursuant to a Joint Stipulation and Order Consolidating Related Actions and Appointing Co-Lead Counsel (the “Consolidation Order”); and

WHEREAS, on February 24, 2023, plaintiff Nicholas Iraci filed a third shareholder derivative action on behalf of nominal defendant CleanSpark in the Eighth Judicial District Court of the State of Nevada in and for Clark County, captioned *Iraci v. Bradford, et al.*, Case No. A-23-866172-C (“*Iraci*”); and

WHEREAS, on February 28, 2023, defendant S. Matthew Schultz (“Schultz”) filed a Petition for Removal and Notice of Petition for Removal, removing *Iraci* to the United States District Court for the District of Nevada. *Iraci* is now pending in the United States District Court for the District of Nevada before the Honorable Jennifer A. Dorsey, captioned *Iraci v. Bradford, et al.*, Case No. 2:23-cv-00315-JAD-NJK. On March 6, 2023, defendant Schultz filed a Notice of Related Case, requesting that *Iraci* be transferred to this Court and added to the Consolidated Action; and

WHEREAS, on March 1, 2023, plaintiff Eric Atanasoff filed a fourth shareholder derivative action on behalf of nominal defendant CleanSpark in the Eighth Judicial District Court of the State of Nevada in and for Clark County, captioned *Atanasoff v. Bradford, et al.*, Case No. A-23-866492-C (“*Atanasoff*”); and

1 **WHEREAS**, on March 7, 2023, defendant Schultz filed a Petition for Removal and
2 Notice of Petition for Removal, removing *Atanasoff* to the United States District Court for the
3 District of Nevada. *Atanasoff* is now pending in the United States District Court for the District
4 of Nevada before the Honorable Anne R. Traum, captioned *Atanasoff v. Bradford, et al.*, Case
5 No. 2:23-cv-00358-ART-BNW. On March 9, 2023, defendant Schultz filed a Notice of Related
6 Case, requesting that *Atanasoff* be transferred to this Court and added to the Consolidated
7 Action; and

8 **WHEREAS**, on February 21, 2013, plaintiff Brandon Smith filed a shareholder
9 derivative action on behalf of nominal defendant CleanSpark in the Eighth Judicial District Court
10 of the State of Nevada in and for Clark County, captioned *Smith v. Bradford, et al.*, Case No. A-
11 23-866051-C (“*Smith*”); and

12 **WHEREAS**, on March 23, 2023, Defendants filed a Petition for Removal and Notice of
13 Removal, removing *Smith* to the United States District Court for the District of Nevada. *Smith* is
14 now pending in the United States District Court for the District of Nevada before this Court,
15 captioned *Smith v. Bradford, et al.*, Case No. 2:23-cv-00445-GMN-BNW. On March 24, 2023,
16 Defendants filed a Notice of Related Case, requesting that *Smith* be added to the Consolidated
17 Action; and

18 **WHEREAS**, on March 8, 2023, plaintiff Travis France filed a shareholder derivative
19 action on behalf of nominal defendant CleanSpark in the Eighth Judicial District Court of the
20 State of Nevada in and for Clark County, captioned *France v. Bradford, et al.*, Case No. A-23-
21 866925-C (“*France*” and together with the *Iraci*, *Atanasoff*, *Smith*, and the Consolidated Action,
22 the “Six Derivative Actions”); and

23 **WHEREAS**, on March 23, 2023, Defendants filed a Petition for Removal and Notice of
24 Removal, removing *France* to the United States District Court for the District of Nevada.
25 *France* is also now pending in the United States District Court for the District of Nevada before
26 this Court, captioned *France v. Bradford, et al.*, Case No. 2:23-cv-00444-GMN-NJK. On March
27 24, 2023, Defendants filed a Notice of Related Case, requesting that *France* be added to the
28 Consolidated Action; and

1 **WHEREAS**, on March 24, 2023, Defendants filed a Motion to Consolidate in the
2 Consolidated Action, with notifications for *Iraci, Atanasoff, Smith*, and *France*, requesting that
3 those cases be consolidated with the Consolidated Action before this Court; and

4 **WHEREAS**, between March 30, 2023 and April 6, 2023, plaintiffs in *Iraci, Atanasoff*,
5 *Smith*, and *France* all filed motions to remand those actions back to state court; and

6 **This Action**

7 **WHEREAS**, on April 12, 2023, after meeting and conferring extensively, the Parties
8 submitted a joint Stipulation and [proposed] Order Extending Time to Respond to Complaint
9 (the “Stipulation”) agreeing to extend the time to respond to the Complaint until April 20, 2023,
10 which the Court subsequently endorsed; and

11 **WHEREAS**, on April 20, 2023, Defendants moved to dismiss the Complaint; and

12 **WHEREAS**, given the crowded briefing schedules in the Six Derivative Actions, the
13 Parties agree to extend the deadline for Plaintiff to oppose Defendants’ motion to dismiss the
14 complaint until on or before May 22, 2023; and

15 **WHEREAS**, given the crowded briefing schedules in the Six Derivative Actions, the
16 Parties agree to extend the deadline for Defendants to reply in support of their motion to dismiss
17 the complaint until on or before June 7, 2023.

18 **NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED**, by the Parties
19 hereto, through their undersigned counsel, subject to the approval of the Court, as follows:

20 1. Plaintiff’s deadline to oppose Defendants’ motion to dismiss the complaint is
21 extended until on or before May 22, 2023.

22 2. Defendants’ deadline to reply in support of their motion to dismiss the complaint
23 is extended until on or before June 7, 2023.

24 3. Other than as agreed herein, the Parties reserve all rights.

25
26 *[signatures on following page]*
27
28

DATED: April 26, 2023

WILK AUSLANDER LLP

/s/ Aari Itzkowitz

Jay S. Auslander
Natalie Shkolnik
Aari Itzkowitz
Michael Van Riper
825 Eighth Avenue, Ste. 2900
New York, New York 10019
(212) 421-2902 tel
(212) 752-6380 fax

jauslander@wilkauslander.com
nshkolnik@wilkauslander.com
aitzkowitz@wilkauslander.com
mvanriper@wilkauslander.com
Counsel for Defendants

FOX ROTHSCHILD LLP

/s/ Colleen McCarty

MARK J. CONNOT (10010)
COLLEEN E. MCCARTY (13186)
1980 Festival Plaza Drive, Ste. 700
Las Vegas, NV 89135
mconnot@foxrothschild.com
cmcarty@foxrothschild.com
Liaison Counsel for Defendants

DATED: April 26, 2023

LEVERTY & ASSOCIATES LAW CHTD

/s/ Patrick Leverty

PATRICK R. LEVERTY
Reno Gould House
832 Willow Street
Reno, NV 89502
pat@levertylaw.com
Liaison Counsel for Plaintiffs

THE BROWN LAW FIRM, P.C.

Timothy Brown
767 Third Avenue, Ste. 2501
New York, NY 10017
tbrown@thebrownlawfirm.net
Co-Lead Counsel for Plaintiffs

THE ROSEN LAW FIRM, P.A.

Phillip Kim
275 Madison Avenue, 40th Fl.
New York, NY 10016
pkim@rosenlegal.com
Co-Lead Counsel for Plaintiffs

ORDER

IT IS SO ORDERED.


UNITED STATES DISTRICT COURT JUDGE

DATED: April 27, 2023